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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN 27 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Implementation of Sections 3(n)
and 332 of the Communications Act

Regulatory Treatment of Mobile
Services

)
)
) GN Docket No. 93-252
)
)
)

REPLY

The Personal Communications Industry Association ("PCIA"), pursuant to Section 1.429(g) of the Commission's Rules,¹ hereby submits its Reply to certain Oppositions to its Petition for Reconsideration ("Petition") of the Second Report and Order in the above-captioned proceeding.² As explained in PCIA's Petition and further discussed below, the Commission should forbear from applying Section 225 of the Communications Act to CMRS providers, to the extent the Commission has interpreted that section to require that providers of non-voice CMRS contribute to the Telecommunications Relay Service ("TRS") fund. The Commission also should forbear from applying Section 226 of the Act (TOCSIA) to all CMRS providers.

With respect to TRS, PCIA showed in its Petition that application of TRS funding requirements to providers of non-voice CMRS is not necessary to protect consumers or serve the

¹ 47 C.F.R. § 1.429(g) (1993).

² 9 FCC Rcd 1411 (1994).

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public interest. Non-voice CMRS offerings are fully accessible to users with hearing or speech disabilities, and these services can help such individuals use the public switched network and participate in the National Information Infrastructure.³ Accordingly, forbearance is necessary to avoid saddling users of non-voice CMRS with costs that yield no concomitant benefits,⁴ and to assure consistency with the Commission's previous holding that non-voice satellite-based services need not contribute to the TRS fund.⁵ PCIA's request for forbearance was unopposed and should be promptly granted.

With respect to TOCSIA, PCIA demonstrated that application of Section 226 to CMRS providers is not necessary to protect consumers, imposes substantial costs, and produces absurd results.⁶ PCIA also explained that forbearance from applying TOCSIA requirements is necessary to avoid

³ Petition for Reconsideration of PCIA, GN Docket No. 93-252, filed May 19, 1994 ("PCIA Petition"), at 3; see also Response of BellSouth to Petitions for Reconsideration, GN Docket No. 93-252, filed June 16, 1994, at 5-6 (supporting PCIA's request and noting that non-voice CMRS services are generally available to all users without regard to disability).

⁴ PCIA further notes that interstate non-voice CMRS account for a minuscule amount of total interstate revenues. Accordingly, the requested forbearance would not appreciably increase the funding obligations of other entities -- particularly since the TRS fund currently enjoys a surplus.

⁵ PCIA Petition at 3-4.

⁶ Id. at 5.

undermining the substantial public interest benefits of tariff forbearance.⁷ GTE submitted a Petition for Reconsideration seeking identical relief and documenting that the statutory forbearance test is satisfied.⁸ Air Touch also supported TOCSIA forbearance, stating that, "even if Section 226 could be applied lawfully to CMRS providers, the public interest would be significantly better served by forbearance."⁹

No party opposed forbearance from applying TOCSIA to CMRS providers. MCI asked the Commission to defer the relief request to Docket No. 94-33,¹⁰ but such delay is unwarranted. The record more than adequately demonstrates that forbearance is appropriate and that compliance with TOCSIA engenders considerable and ongoing costs.

For the foregoing reasons, and those expressed in its Petition, PCIA urges the Commission expeditiously to forbear from (1) requiring providers of non-voice CMRS to contribute

⁷ Id. at 6.

⁸ Petition for Reconsideration or Clarification of GTE, GN Docket No. 93-252, filed May 19, 1994, at 2-6.

⁹ Air Touch Opposition to and Comments on Petitions for Reconsideration, GN Docket No. 93-252, filed June 16, 1994, at 6-7.

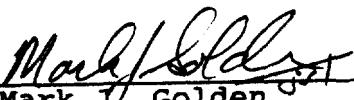
¹⁰ Comments of MCI on Petitions for Reconsideration, GN Docket No. 93-252, filed June 16, 1994, at 3.

to the TRS fund, and (2) applying Section 226 of the Act to CMRS providers.

Respectfully submitted,

PERSONAL COMMUNICATIONS
INDUSTRY ASSOCIATION

By:


Mark J. Golden
Personal Communications
Industry Association
1019 19th Street, N.W.
Suite 1100
Washington, D.C. 20036
(202) 467-4770

Dated: June 27, 1994

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of June, 1994, I caused copies of the foregoing "Reply of The Personal Communications Industry Association" to be mailed via first-class postage prepaid mail to the following:

Larry Blosser
Donald J. Elardo
MCI Telecommunications Corporation
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Bethany G. Smith
Bethany G. Smith